

TITLE 14, CALIFORNIA CODE OF REGULATIONS
SUBDIVISION 4, OFFICE OF SPILL PREVENTION AND RESPONSE

CHAPTER 1. GENERAL DEFINITIONS AND ABBREVIATIONS

CHAPTER 3. OIL SPILL PREVENTION AND RESPONSE PLANNING
SUBCHAPTER 6. OIL TRANSFER AND VESSEL OPERATIONS

INITIAL STATEMENT OF REASONS

July 18, 2001

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Ch. 1248, Stats. 1990) (the Act) mandates that the Administrator promulgate regulations affecting the transfer of oil over or adjacent to marine waters of the State of California. Additionally, the Act requires the Administrator to address lightering operations and other oil transfer operations in order to "...provide the best achievable protection of marine resources."

Following the enactment of the above-cited legislation, and the establishment of the Office of Spill Prevention and Response (OSPR), regulations governing oil transfer operations were adopted. Current industry practices concerning vessel fueling (bunkering) and the transfer of bulk cargo oil from one tanker to another (lightering) were reviewed. This review indicates that clarifying some of the current requirements and, in some cases, additional requirements governing bunkering and lightering will reduce both accidental and inherent spills into California's Marine Waters.

The proposed amendments to the regulations are needed to implement new preventative measures, and to provide additional clarity and consistency to current requirements to those parties either affected by their adoption or charged with their enforcement.

Certain of these regulations restate parts of the Act and Federal requirements. The Administrator has determined that this restatement is necessary to provide those affected by this regulatory action with one concise document on which to rely, rather than referring the user first to either the California statutory language or to Federal requirements and then back to these regulations. Restating these provisions within the regulations ensures both clarity and accessibility. Where restatement of lengthy Federal requirements would be cumbersome to the reader, the Federal citation is instead provided.

CHAPTER 1. GENERAL DEFINITIONS AND ABBREVIATIONS
Section 790. Definitions and Abbreviations.

Subsections (b)(9) and (l)(4) were amended to clarify the definitions of "bunkering" and

“lightering”, respectively. Both definitions now include the terms “transfer unit” and “receiving unit” which are further defined in this section, and are now the terms used for the unit (vessel or facility) that either transfers or receives oil (either for fuel or cargo). Both of the definitions of bunkering and lightering have not been substantively changed, just re-worded and clarified.

Subsection (m)(5) was amended for clarity by removing a circular reference to “small marine fueling facility” in the definition of “mobile transfer unit”. (The “small marine fueling facility” definition already includes “mobile transfer units”.)

Subsection (s)(2) was repealed as unnecessary. The generic term “receiving unit” now replaces the term “service vessel” which was limited to vessels that receive a cargo of oil.

Subsequent subsections were re-numbered.

New Subsection (s)(4) was amended to include the English, as well as the metric description of a “small craft”. This is a technical/grammatical change without regulatory effect.

New Subsection (s)(5) was amended to add the word “sealed” to clarify the original intent that small craft refueling docks should only dispense small amounts of persistent lubrication oil in “sealed” containers.

New Subsection (s)(8) was amended to include the gallon description for one barrel. This is a technical/grammatical change without regulatory effect.

New Subsection (s)(9) was amended to more appropriately describe “Staff” as representatives of the California Department of Fish and Game. This is a technical/grammatical change without regulatory effect.

Subsection (t)(5) was repealed as unnecessary. The generic term “transfer unit” now replaces the term “transfer vessel” which was limited to vessels that transfer oil as fuel.

Subsequent subsections have been re-numbered.

Subsection (v)(3) was repealed as unnecessary. The term generic term “transfer unit” now replaces the term “vessel to be lightered” which was limited to vessels that offload oil as cargo.

Subsequent subsections have been re-numbered.

CHAPTER 3. OIL SPILL PREVENTION AND RESPONSE PLANNING

SUBCHAPTER 6. OIL TRANSFER AND VESSEL OPERATIONS

ARTICLE 1, GENERAL REQUIREMENTS

Section 840. Short Title.

The “Office of Oil Spill Prevention and Response” title has been changed to the “Office of Spill Prevention and Response”. This change has been reflected throughout this subchapter, and is a grammatical/technical change without regulatory effect.

Section 840.1. Applicability.

Subsection (a)(1) has been amended to more clearly explain to the regulated community the applicability of this subchapter to oil transfer operations, except as noted.

Subsection (a)(2) has been adopted to clarify that the applicability extends to oil transfer operations at drydock facilities. This is necessary to ensure that the regulated community, and other affected parties, are aware that the requirements of this subchapter also apply to drydocks. These facilities can pose a significant risk of an oil spill, as evidenced by the Cape Mohican spill (October, 1996) which occurred at a drydock facility in San Francisco.

Old Subsection (a)(2) has been repealed in an effort throughout this subchapter to use the generic terms “transfer operation”, “transfer unit”, and “receiving unit” instead of the more specific terms “bunkering”, “lightering”, “service vessel”, “vessel to be lightered”, etc., as applicable. This is necessary to remove the distinction between “bunkering” and “lightering” so that the generic term “oil transfer” can be used and the duplicate requirements for bunkering and lightering can be consolidated. Also, “transfer unit” and “receiving unit” are now used so as not to make the unnecessary distinction between the “units” (i.e., vessel, marine facility, small marine fueling facility, mobile transfer unit) being regulated by this subchapter.

Old Subsection (a)(3) has been repealed to reflect the removal of Article 1.4, “Requirements at Offshore Marine Terminals” of this subchapter. It has been determined that jurisdiction for these terminals lies with the State Lands Commission, and the requirements in this subchapter are unnecessary.

New Subsection (a)(3) has been adopted to further specify the applicability of the provisions of this subchapter. “Vessel”, as it is used in this subchapter, is clarified that it is not limited to the definition in Chapter 1, Section 790 of this subdivision, which is limited to “tanker or barge”. Limiting the definition of vessel to that found in Section 790 would severely limit the intent of this subchapter which is to regulate all oil transfer operations (of vessels with an oil capacity over 250 barrels), not just transfers to/from tankers and barges. This is necessary to assure that the regulated community has a clear understanding of the terms used, and applicability of these regulations, and to implement the Administrator’s Best Achievable Protection mandate for California’s marine waters, outlined in Government Code Section 8670.17(b).

Subsection (b) has been adopted to clarify which vessels and transfer operations are, and are not, subject to the requirements of this subchapter.

Subsection (b)(1) has been adopted to exempt vessels with an oil capacity of less than 250 barrels, because the cost of compliance with the requirements of this subchapter for these small vessels would be prohibitive, and the benefit of compliance with this subchapter not justified. Also, this is consistent with Federal requirements (Title 33, Code of Federal Regulations (CFR), Part 156).

Subsection (b)(2) has been adopted to exemption marine terminal transfers, because these fall under the jurisdiction of the State Lands Commission as described in Public Resources Code Section 8655.

Subsection (b)(3) has been adopted to exempt “small craft refueling docks” as defined, which is consistent with the determination that a small craft refueling dock is not a “marine facility” (as delineated in the definition of “marine facility” in Government Code Section 8670.3(f)).

Subsection (b)(4) has been amended to reference the Federal definition of “public vessels” to clarify the applicability of this subchapter.

Subsection (b)(6) has been amended to reference the definition of “Vessels of Opportunity” in Chapter 1, Section 790, to clarify the applicability of this subchapter.

Subsection (c) has been adopted to specify that both the transfer unit and receiving unit may be inspected by Staff during any phase of the transfer operation. This is consistent with the clarification in Subsection (a)(3) that the Administrator’s jurisdiction is not limited to just tankers or barges, and that facilities are also subject to inspection. This is necessary to ensure that the regulations meet the best achievable protection standard of Government Code Section 8670.17.

Section 840.2. Administration.

No Change.

Section 841. Definitions.

Each of the terms defined in this section is used within the body of this subchapter and could be assigned more than one meaning by persons affected by these provisions. These definitions will assure that those persons have a clear understanding of the terms as they are used in this subchapter.

Subsection (a) has been added to define a particular type of oil. This definition is necessary because this type of oil is referenced (along with persistent oil) in Subsection 844(c) of this

subchapter in the requirements for containment and removal equipment. Persistent oils are able to be “boomed” (i.e., of a limited volatility which does not readily evaporate, so that the oil remains thick enough to be contained and recovered). Certain non-persistent oils (the “#1 and #2 Grade Oils” as defined) as also able to be boomed, and are included in the requirements for containment and recovery equipment.

Subsection (b) has been added to limit the type of boom discussed in this subchapter to “containment” boom, which is used to “contain” the oil for eventual removal; as opposed to “absorbent” boom, which is used to remove limited amounts of oil through adsorption.

Subsequent subsections have been renumbered.

New Subsection (d) (“receiving unit”) has been added in an effort throughout this subchapter to use the generic terms “transfer unit”, and “receiving unit” instead of the more specific terms “service vessel”, “transfer vessel”, and “vessel to be lightered”, as applicable. This is necessary to remove the distinction between “units” (i.e., tank vessel, nontank vessel, marine facility, small marine fueling facility, mobile transfer unit) and operations (i.e., bunkering or lightering) being regulated by this subchapter. The requirements for “transfer operations” (no matter to/from what type of vessel/facility) can now be generically described to eliminate confusion, and to remove duplication so that the requirements can be consolidated.

New Subsection(e) restates the definition of “small marine fueling facility” contained in Government Code Section 8670.3. The OSPR has determined that this restatement is necessary to provide the regulated community with one concise document on which to rely, rather than referring the user first to the statutory language for certain definitions and back to the regulations for others. Restating this definition within this subchapter ensures both clarity and accessibility.

New Subsection (f) defines "SOLAS" so that the regulated community will know the specific edition of the “International Convention for Safety of Life at Sea 1974” that is being referred to in Subsection 845.2(b)(2) of this subchapter.

New Subsection (g) has been added to specify who is designated as “Staff” by the Administrator to act on his behalf, in the implementation of this subchapter.

Subsection (h) has been amended to clarify and simplify what is meant by a “transfer operation”, as used in this subchapter.

New Subsection (i) (“transfer unit”) has been added in an effort throughout this subchapter to use the generic terms “transfer unit”, and “receiving unit” instead of the more specific terms “service vessel”, “transfer vessel”, and “vessel to be lightered”, as applicable. This is necessary to remove the distinction between “units” (i.e., tank vessel, nontank vessel, marine facility, small marine fueling facility, mobile transfer unit) and operations (i.e., bunkering or lightering) being regulated by this subchapter. The requirements for “transfer operations” (no matter to/from what

type of vessel/facility) can now be generically described to eliminate confusion, and to remove duplication so that the requirements can be consolidated.

Section 842. Incorporation By Reference.

No Change.

ARTICLE 1.1, REQUIREMENTS FOR THE TRANSFER OF OIL

Section 843. General.

Subsection (a)(1) has been amended in an effort throughout this subchapter to use the generic term “oil transfer operation”, instead of the more specific terms “bunkering” or “lightering”, as applicable. This is necessary to remove the distinction between “bunkering” and “lightering” so that the generic term “oil transfer” can be used and the duplicate requirements for bunkering and lightering can be consolidated. It is necessary to make clear that the requirements contained in this subchapter are required to be met for any type of transfer operation, and that this subchapter affects those persons directly involved in such activities.

Subsection (b) has been added to clarify the Administrator’s authority over oil transfer operations, and the Administrator’s (i.e., Staff’s) authority to shut down operations for violations of this subchapter. The enforcement action that may be taken for failure to comply with a shut down order is also specified. This is necessary to clearly inform the regulated community of the Administrator’s authority (as specified in Government Code Section 8670.17) and the potential consequences for failure to comply with a shutdown order issued by Staff.

Subsequent subsections have been re-numbered.

Subsection (d) contains a technical/grammatical change without regulatory effect.

The Authority reference has been amended to include reference to the enforcement authority of the Administrator.

Section 843.1 Persons in Charge: Designation and qualifications

Subsection (a) has been amended in an effort throughout this subchapter to use the generic terms “transfer unit”, and “receiving unit” instead of the more specific terms “service vessel”, “transfer vessel”, “receiving vessel” and “vessel to be lightered”, as applicable. This is necessary to remove the distinction between “units” (i.e., tank vessel, nontank vessel, marine facility, small

marine fueling facility, mobile transfer unit) and operations (i.e., bunkering or lightering) being regulated by this subchapter. The requirements for “transfer operations” (no matter to/from what type of vessel/facility) can now be generically described to eliminate confusion, and to remove duplication so that the requirements can be consolidated.

Subsection (b) has been amended to simplify the statement and is a technical/grammatical change without regulatory effect.

Subsections (b)(1) and (b)(2) have been amended to add the appropriate Federal citations for information on the designation of, and qualifications for, the “person in charge”.

Section 843.2. Compliance With Oil Transfer Procedures or Operations Manual.

This section has been amended to refer to the documents required by Federal regulation (as cited) known as the "oil transfer procedures" for vessels, and the “operations manual” for facilities. The oil transfer procedures for vessels have already been included in this section. The corresponding document for facilities - the operations manual - needed to be added to provide reference to, and assure compliance by, facility personnel involved in oil transfer operations. These documents are required to be kept current and requires that personnel involved in oil transfer operations use the documented procedures for each transfer operation.

Section 843.3. Availability of Oil Transfer Procedures or Operations Manual.

This section has been amended to include reference to the operations manual (described in Section 843.2, above).

Subsection (a) has been amended in an effort throughout this subchapter to use the generic term “oil transfer operation”, instead of the more specific terms “bunkering” or “lightering”, as applicable. This is necessary to remove the distinction between “bunkering” and “lightering” so that the generic term “oil transfer” can be used and the duplicate requirements for bunkering and lightering can be consolidated. It is necessary to make clear that the requirements contained in this subchapter are required to be met for any type of bunkering or lightering operation, and that this subchapter affects those persons directly involved in such activities.

Subsection (c) has been amended to specify where the oil transfer procedures or operations manual needs to be kept to be available.

Section 843.4. Contents of Oil Transfer Procedures or Operations Manual.

This section has been amended throughout to refer to the documents know as the "oil transfer procedures" for vessels, and the “operations manual” for facilities. This section sets forth specific

requirements for the contents of each document. The oil transfer procedures for vessels have already been included in this section. The corresponding document for facilities - the operations manual - needed to be added to provide reference to, and assure compliance by, facility personnel involved in oil transfer operations.

Section 843.5. Draining of Oil.

No Change.

Section 843.6. Emergency Shutdown.

Subsection (a) has been amended to broaden the requirement for emergency shutdown procedures as described to all vessels (not just tank vessels; i.e., tankers or barges).

Subsection (b) has been added to specify that small marine fueling facilities need to have an operable means of emergency shutdown.

Subsection (e) has been added to require that the shutdown be accessible to the person in charge.

All of these amendments are necessary to ensure that an operable means of shutting down an oil transfer operation exists. The ability to shutdown an operation quickly is critical to reducing/eliminating a discharge of oil into California Marine waters. The Administrator needs assurances that not only do these procedures exist, but that they are accessible to the person in charge of the transfer operation.

Section 843.7. Communications.

Subsection (a) has been amended to clarify the requirements for continuous two-way voice communication between persons in charge of the transfer operation on both the transfer unit and receiving unit.

Subsection (b) is language that was moved from old Subsection (c).

Subsection (c) has been amended to specify that if the primary means of communications fails, the transfer operations shall be discontinued, as described. Being able to communicate with all of the personnel involved is essential for a safe and successful oil transfer operation and, if the communication system fails, the transfer should be stopped as soon as possible until the communications are re-established.

Section 843.8. Pre-Transfer Requirements For Oil Transfer Operations.

Subsection (d) has been amended to be less prescriptive in how an oil transfer system is aligned.

Subsection (g) has been amended to use the generic terms “transfer unit” and “receiving unit”; and to clarify that for smaller vessels (less than 250 barrel capacity) an automatic shutoff nozzle may be used.

Subsection (j) has been amended to correct the citations that have been re-numbered in this subchapter. This is a technical/grammatical change without regulatory effect.

Subsection (k) has been amended to clarify the intent - that scuppers and freeing ports be blocked/closed to prevent any discharge of oil

Subsection (m) contain technical/grammatical changes without regulatory effect.

Subsection (o) has been amended to use the generic terms “transfer unit” and “receiving unit”.

Subsection (p) has been amended to clarify the requirements for the person in charge. The Oil Transfer Procedures for vessels have already been included in this section. The corresponding document for marine facilities - the Operations Manual - needed to be added to provide reference to, and assure compliance by, facility personnel involved in oil transfer operations.

Subsection (q) contain technical/grammatical changes without regulatory effect.

Subsection (r) has been amended to further implement the provisions of Government Code Section 8670.17(c)(2), which requires that at least one person on board a vessel be able to communicate in English.

Subsection (s) has been amended to use the generic terms “transfer unit” and “receiving unit”.

Subsection (s)(1) has been amended to add a requirements for a material safety data sheet so the personnel involved in the oil transfer operation, and well as Staff doing the inspection, will have the necessary safety information of the product on hand.

Subsection (s) (8) has been amended to specify the content of the required emergency procedures. This is necessary so that Staff (and the Administrator) are assured that the proper spill containment and cleanup resources are under contract and available, and that both units will provide these resources (instead of assuming that the other will). Also, requirements have been added that the emergency shutdown procedures are written and agreed to, so that all parties understand these procedures in case this critical function is needed during an oil transfer operation.

Subsection (t) has been amended to use the generic terms “transfer unit” and “receiving unit”.

Subsection (u) has been amended to more thoroughly describe adequate lighting requirements for evening operations. These requirements are consistent with those found in Public Resources Code Section 2365 for marine terminals under State Lands Commission’s jurisdiction, and are consistent with current industry practice. This is necessary to ensure adequate lighting during evening operations, which is essential for safe oil transfer operations and early detection of an oil spill.

Subsection (v) has been added to reference and assure compliance with the Federal fire fighting equipment requirements for tank vessels.

Subsection (w) has been added to include fire fighting equipment for nontank vessels (comparable to the Federal requirements for tank vessels).

Subsection (x) has been added to facilitate inspection of the hose markings by Staff.

Subsection (y) has been added so that requirements for transfer connections are understood by personnel involved in oil transfer operations. Suitable, appropriate and adequate connections and connection devices are critical in ensuring that transfer connections do not leak or breach. These requirements will provide assurances to the Administrator that all transfer connections are sound.

Subsection (a) has been added to ensure that adequate containment is provided for a fill-pipe.

Subsection (aa) has been added to ensure that essential information, in addition to what is required by Federal law, has been discussed. This includes: the identification of, and acknowledgment by, each unit’s Oil Spill Response Organization (OSRO) that they will provide the requisite spill containment and response equipment; the emergency shutdown procedures, including agreed-up hand signals to initiate and complete the shutdown; and specification on who is to fill-out and sign the Declaration of Inspection (DOI). These requirements will assure the Administrator and Staff that critical elements of a transfer operation are in place - appropriate spill response equipment, emergency shutdown procedures, and responsibility for completing and signing the DOI. This is necessary to implement the provisions of Government Code Section 867017(b), to ensure the best achievable protection of the public health and safety and the environment.

Subsection (ab) has been added to assure that a pre-loading plan (i.e., a description of how and where cargo is to be loaded, so the weight is distributed in a safe manner) is completed in writing.

Subsection (ac) has been added to delineate the conditions under which a transfer operation shall not be started, or shall be discontinued. This is necessary to clearly explain to the personnel involved in oil transfer operations the unsafe or potentially unsafe conditions that would

necessitate not starting or shutting down an oil transfer operation.

Section 843.9. Personnel Work Limitations.

Subsection (a) has been amended to eliminate the exception to the work hour requirements for a drill. Most drills are known in advance or can be scheduled so that personnel involved do not have to work excess hours and create a potentially unsafe working environment.

Section 844. Containment and Response Equipment Requirements; Marine facility and Vessel Oil Transfer Operations.

[The section heading has been amended to more accurately reflect the contents of the section. A statement has been added to specify that this section does not apply to small marine fueling facilities (SMFF). Requirements for SMFF are contained elsewhere in this subchapter. These are technical/grammatical changes without regulatory effect.]

Subsection (b) has been amended to clarify the requirements for containment and removal of on-deck spills.

Subsection (b)(1) has been amended to use the generic terms “transfer unit” and “receiving unit”. The subsection has been further amended to reflect that “storage” is part of the requirements, and to remove the term “cargo” so that this now applies to all oil carried, not just oil carried as cargo. The requirements for mobile transfer units has been repealed because those requirements are now included in the SMFF section (Section 844.3) of this subchapter.

Subsections ((b)(1)(A) and (C) have been amended to specify the amount of sorbents and portable containers, respectively, that are needed (consistent with the volume requirements contained in Subsection (b)(1)).

Subsection (b)(1)(D) has been amended to specify the amount of deck cleaning agent that is required. This amount has been recommended by technical staff as sufficient to help clean up a seven barrel spill. The term “emulsifiers” has been repealed because that is not the type of product that would be useful in cleaning up a spill.

Subsection (b)(1)(E) has been amended to specify the type of protective clothing that is required.

Subsections (b)(1)(F) and (G) have been amended to require “appropriate” hoses.

All of these amendments are necessary to provide the regulated community with information regarding the specify types and amounts of containment, removal, and storage equipment and supplies that are appropriate for a seven barrel spill. Cleanup and removal of an on-deck spill is a critical component of preventing an on-deck spill from becoming an on-water spill where it is

much more difficult and expensive to clean up, especially if the oil reaches the shoreline. This is necessary for the best achievable protection of coastal and marine resources.

Subsection (c) has been amended to use the terms generic terms “transfer unit” and “receiving unit”, and to also exclude SMFF’s from these requirements (SMFF requirements are found in Section 844.3 of this subchapter). #1 and #2 grade oils (as defined) have been added because these types of oil are able to be effectively contained (boomed) and removed.

Subsection (c)(1) has been amended to use the generic terms “transfer unit” and “receiving unit”. Additional amendments have been made to clarify how and where the boom is to be deployed to be effective. (Reference to mobile transfer units have been removed because these requirements are included in the SMFF requirements).

Subsection (c)(2) has been amended to clarify what is meant by “immediate”. This term has caused confusion to the regulated community, and has understandably generated differing interpretations. Clarifying this term (and the time frame for action) will eliminate this confusion and will require deployment of containment resources in the critical early hours of a spill to prevent further spread of the oil spill and prevent the oil from reaching the shoreline, where it can do much more damage and be much more difficult and expensive to clean-up than if it is recovered on-water.

Subsection (d) has been amended to clarify the containment resources that must be “cascaded in” to the scene of the spill. This subsection has been further amended to clarify what is meant by “immediate”. This term has caused confusion to the regulated community, and has understandably generated differing interpretations. Clarifying this term (and the time frame for action) will eliminate this confusion and will require deployment of backup/additional containment to keep the oil from spreading and reaching the shoreline.

Section 844.1 Oil Discharge Cleanup; Marine Facility and Vessel Oil Transfer Operations.

[The section heading has been amended to more accurately reflect the contents of the section. A statement has been added to specify that this section does not apply to small marine fueling facilities (SMFF). Requirements for SMFF are contained elsewhere in this subchapter. These are technical/grammatical changes without regulatory effect.]

Subsection (b)(1) has been added for necessity to include that an oil transfer operation cannot resume until the source of the spill has been secured. Several technical/grammatical changes have been made that are without regulatory effect.

Section 844.2 Reporting Requirements; Marine Facility and Vessel Oil Transfer Operations.

[The section heading has been amended to more accurately reflect the contents of the section. A statement has been added to specify that this section does not apply to small marine fueling facilities (SMFF). Requirements for SMFF are contained elsewhere in this subchapter. These are technical/grammatical changes without regulatory effect.]

This section has been amended in an effort throughout this subchapter to use the generic term “oil transfer operation”, instead of the more specific terms “bunkering” or “lightering”, as applicable. This is necessary to remove the distinction between “bunkering” and “lightering” so that the generic term “oil transfer” can be used and the duplicate requirements for bunkering and lightering can be consolidated. Amendments have also been made to use the generic terms “transfer unit” and “receiving unit”.

Subsection (a)(2) has been amended to clarify that it does not have to be an “emergency” (which is too subjective), but any incident or occurrence which poses a threat to the vessels involved, that needs to be reported.

Subsection (b) has been amended to remove reference to mobile transfer units because they are included with the requirements for SMFF’s (Section 844.5 of this subchapter).

Subsection (c)(2) has been added to clarify that the notification requirements also apply to oil transfers to or from: 1) a marine facility; 2) a tank vessel or nontank vessels within a drydock; and the drydock itself. The regulated community needs to be aware that they need to notify OSPR when conducting drydock transfers so that Staff can arrange for an inspection during that transfer. The Cape Mohican spill (October 1996) is an example of a drydock oil transfer that Staff was not notified of and was therefore unable to monitor. If Staff had been notified, and were able to inspect and observe the transfer, that spill might have been mitigated or prevented altogether. Subsequent subsections have been re-numbered.

Subsection (c)(3) has been amended as an accommodation to the regulated community to allow additional options for the means of notifications to staff.

Subsection (c)(4) has been amended to add requirements for additional information to be reported in the notification of an oil transfer operation: the time anticipated for the completion of the transfer is needed so Staff can schedule their time accordingly; the quantity of oil being transferred which is important information for Staff to effectively inspect and monitor the transfer; the name and telephone number of the Qualified Individual so Staff will have this important information (and to verify that the transfer unit is aware of this information); and the name of the OSRO, again so Staff will have this important information (and to verify that the transfer unit is aware of this information).

New Subsection (c)(5) has been added to require the transfer unit to notify Staff if the time of a transfer changes by more than one hour, or is cancelled. With a limited number of Staff, working with a limited amount of time, knowledge of changes or cancellations in a scheduled transfer

operation is critical for Staff to schedule their time in the most efficient manner possible. The subsequent subsections have been re-numbered. Technical/grammatical changes have also been made, which are without regulatory effect.

Old Subsection (c)(4) has been repealed because an agreement with the U.S. Coast Guard, Marine Safety Office to be recipients of oil transfer notifications has not been made, and is unlikely to occur in the future.

Section 844.3 Containment and Response Equipment Requirements; Small Marine Fueling Facility Oil Transfer Operations.

This section has been added so that there are specific requirements for Small Marine Fueling Facilities (SMFF), which includes Mobile Transfer Units. This is necessary to craft requirements for these facilities which, by definition (“...total useable tank storage capacity not exceeding 75,000 gallons...), handle substantially less oil than a marine facility.

Subsection (a) has been added to specify that the requirements in this section are in addition to the Federal requirements, as specified. This is necessary to provide consistency with Federal requirements, as applicable, as has been done for marine facilities and vessels (Section 844(a)).

Subsection (b) has been added to specify the requirement for the capacity and types of equipment and supplies for the containment and removal of on-deck and on-shore spills of at least two barrels. These requirements are necessary for consistency with the requirements for marine facilities and vessels (Section 844(b)), commensurate with the potential volume of a spill from a SMFF. All of the requirements listed (Subsections ((b)(1) - (b)(7)) are necessary to provide the regulated community with information regarding the specify types and amounts of containment, removal, and storage equipment and supplies that are appropriate for a two barrel spill. Cleanup and removal of an on-deck spill is a critical component of preventing an on-deck spill from becoming an on-water spill where it is much more difficult and expensive to clean up, especially if the oil reaches the shoreline. These requirements are necessary for the best achievable protection of coastal and marine resources.

Subsection 844.3(c) has been added to provide specific containment requirements for SMFF, commensurate with the potential volume and type of spilled oil from these facilities. #1 and #2 grade oils (as defined) are specifically listed because these types of oil are able to be effectively contained (boomed) and removed. The requirements in this subsection are consistent with the containment requirements for marine facilities and vessels (Section 844(c)). This subsection requires deployment of containment resources in the critical early hours of a spill to prevent further spread of the oil spill and prevent the oil from reaching the shoreline, where it can do much more damage and be much more difficult and expensive to clean-up than if it is recovered on-water.

Subsection (c)(1) and (2) have been added to specify the options for the SMFF to meet the containment requirements - either by having boom pre-deployed; or by providing stand-by booming that can be deployed immediately (as specified).

Subsection (d) has been added to specify the containment resources that must be “cascaded in” to the scene of the spill. This is necessary to ensure that these additional resources can be brought to the scene in a timely manner, as backup/additional containment to keep the oil from spreading and reaching the shoreline.

Section 844.4 Oil Discharge Cleanup; Small Marine Fueling Facility Operations.

This section is necessary to address the need for ceasing an oil transfer operation in the event of a spill, and under what conditions a transfer operation may resume. This section specifies a checklist of the conditions under which a transfer operation shall stop, and the procedures to be followed before restarting the transfer. The requirements in this section are common practices and are understood by the regulated community. The requirements are also consistent with the requirements for marine facilities and vessels (Section 844.1).

844.5 Reporting requirements; Small Marine Fueling Facility Operations.

Subsection (a) has been added for necessity to address oil spill reporting requirements, to allow for the timely response to a spill or other event which may result in a spill.

Subsection (b) is necessary to specify who is to report any discharge of oil into the water.

Subsection (c) has been added to specify notification requirements for mobile transfer units only. Due to the nature of transfers from mobile transfer units (which are vehicles, trucks or trailers, including all connecting hoses and piping) there is inherently greater risk and potential for spills from these ‘facilities’. It is, therefore, necessary for Staff to receive notification of transfers from these units so they can inspect and monitor the transfer to see that it proceeds in a safe manner. This subsection includes a list of required information to be reported in the notification of an oil transfer. This is necessary so Staff can more effectively schedule their time, so that Staff will have the information they need to effectively inspect and monitor the transfer; and that Staff will have this important contact information (this will also verify that the transfer unit is aware of this information).

Subsection (c)(4) has been added so that the person in charge of the mobile transfer unit is required to notify Staff if the time of a transfer changes by more than one hour, or is cancelled. With a limited number of Staff, working with a limited amount of time, knowledge of changes or cancellations in a scheduled transfer is critical for Staff to schedule their time in the most efficient manner possible. The subsequent subsections have been re-numbered.

Subsection (c)(5) has been added to clarify to the regulated community that acknowledgment by

Staff of the notification is not required to commence the oil transfer operation.

Article 1.2

Additional Requirements for Lightering Operations

Section 844.6 Applicability.

This section has been amended to clarify what is included in a “lightering” operation (to be consistent with the Federal definition of lightering in CCR Section 790(l)(4), Chapter 1). The applicability section is needed to ensure that the regulated community, and other affected parties, are aware of requirements set forth in this separate Article.

Section 844.7 General Requirements; Lightering Operations.

Subsection (a) has been amended in an effort throughout this subchapter to use the generic terms “transfer unit”, and “receiving unit” instead of the more specific terms “service vessel”, “transfer vessel”, “receiving vessel” and “vessel to be lightered”, as applicable. This is necessary to remove the distinction between “units” (i.e., tank vessel, nontank vessel, marine facility, small marine fueling facility, mobile transfer unit) and operations (i.e., bunkering or lightering) being regulated by this subchapter. The requirements for “transfer operations” (no matter to/from what type of vessel/facility) can now be generically described to eliminate confusion, and to remove duplication so that the requirements can be consolidated.

Section 844.5. Discharge Containment Equipment; Lightering Operations.

Section 844.6 Oil Discharge Cleanup; Lightering Operations.

Section 844.7 Reporting Requirements; Lightering Operations.

These sections have been repealed as part of the consolidation of the “bunkering” and “lightering” requirements into the generic “oil transfer operations” requirements.

The requirements for “Containment and Response Equipment Requirements; Marine Facility and Vessel Oil Transfer Operations” are now found in Section 844.

The requirements for “Oil Discharge Cleanup; Marine Facility and Vessel Oil Transfer Operations” are now found in Section 844.1.

The requirements for “Reporting Requirements; Marine Facility and Vessel Oil Transfer Operations” are now found in Section 844.2.

Article 1.4 Requirements At Offshore Marine Terminals

This article has been repealed because these terminals are under the jurisdiction of the State Lands Commission, under Public Resources Code Section 8751.

Article 1.3 Transfer Operations Inspection Program

Subsection 845 (a) has been amended to clarify when a vessel may be boarded and inspected pursuant to this Article, to further implement the requirements of Government Code Section 8670.18. Amendments have also been made to clarify that the Administrator has the primary responsibility for carrying out the provisions of the Act.

Section 845.1 has been amended to use the generic terms ‘transfer operation’ instead of bunkering and lightering.

Subsection 845.2(b)(2) has been amended to specify the type of ladder that has to be provided for access to the vessel, for safety purposes. Also, the language has been amended to use the generic terms ‘transfer operation’ instead of bunkering and lightering.

DOCUMENTS RELIED UPON

Technical, theoretical or empirical studies or reports relied upon:

International Convention for Safety of Life at Sea 1974, consolidated edition 1997, IMO Publications,
International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, United Kingdom.

BUSINESS IMPACT

The proposed amendments codify current bunkering and lightering practices and will not result in significant adverse economic impact on businesses.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed amendments do not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

No alternative which was considered by the OSPR would be more effective than or equally as effective as and less burdensome to affected private persons than the proposed amended regulations

COMPLIANCE WITH GOVERNMENT CODE SECTIONS 11346.2(b)(6), 11346.5, and

11349(f)

The regulations, which implement vessel oil transfer requirements, do not conflict with Federal statutes or regulations.